

FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554

Nov 9 4 42 PM '05

In the matter of

Amendment of Section 73.202(b)
FM Table of Allotments,
FM Broadcast Stations.
(Americus and Oglethorpe, Georgia)

)
)
) MB Docket No. 04-328
) RM-11046
) RM-11235
)
)

MEMORANDUM OPINION AND ORDER

Adopted: November 4, 2005

Released: November 7, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a Joint Petition for Reconsideration filed on behalf of Southern Broadcasting Companies ("Southern Broadcasting") and Radio Georgia, Inc. (collectively "Petitioners"), directed to the *Report and Order* issued in this proceeding.¹ No comments or oppositions were filed in response to the Joint Petition for Reconsideration.

2. **Background.** At the request of SSR Communications, Inc., the *Report and Order* allotted Channel 295A at Americus, Georgia, as its third local FM commercial service. The *Report and Order* also dismissed a counterproposal filed by Southern Broadcasting, requesting the allotment of Channel 295A at Oglethorpe, Georgia because Southern Broadcasting voluntarily withdrew its expression of interest in this allotment.

3. **Petition for Reconsideration.** In the Joint Petition for Reconsideration, the Petitioners refer to "Supporting Reply Comments" filed by SSR Communications in MB Docket No. 05-106, which states that SSR Communications now believes that the public interest would be better served by the proposed allotment of Channel 295A at Plains, Georgia, rather than Channel 295A at Americus, Georgia. In this regard, Southern Broadcasting states that the proposed allotment of Channel 295A at Plains, Georgia, as its first local service, which was requested in a counterproposal in MB Docket No. 05-106, is preferred over the Channel 295A allotted in this proceeding at Americus, Georgia, as its third local FM commercial service. Therefore, the Petitioners request that we set aside the *Report and Order* in this proceeding.

4. **Discussion.** Reconsideration is warranted only if the Petitioner set forth error of fact or law, or presents new facts or changed circumstances which raise substantial or material questions of fact which otherwise warrant reconsideration of the prior action. There are no errors of fact or law in this instance. As such, we find no reason to set aside the *Report and Order* in this proceeding. SSR Communications filed reply comments in a separate proceeding in MB Docket No. 05-106, stating its belief that a Channel 295A allotment at Plains would better serve the public interest. However, pursuant to 1.420(j) of the Commission's rules, SSR Communications did not file any documentation withdrawing its expression of interest in the Americus allotment in this proceeding. Furthermore, the SSR Communications reply comments in MB Docket No. 05-106 were filed nearly seven months after the

¹ See *Americus and Oglethorpe, Georgia*, 20 FCC Rcd 10959 (MB 2005). In the caption, the Petitioners inadvertently state 'Joint Petition for Consideration' instead of Joint Petition for Reconsideration.

October 18, 2004, comment deadline in this proceeding. In view of the above and the fact that a Channel 295A allotment at Americus is in the public interest, we deny the Joint Petition for Reconsideration.

5. The Commission will not send a copy of this *Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A), because the aforementioned Petition for Consideration was denied.

6. IT IS FURTHER ORDERED That the Petition for Reconsideration filed by the Petitioners IS DENIED.

7. IT IS FURTHER ORDERED, That the aforementioned proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau